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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,746	11/21/2003	Vladimir I. Slepnev	046264-065362	3146
72779	7590	02/01/2008	EXAMINER	
Mark J. FitzGerald Nixon Peabody LLP 100 Summer Street Boston, MA 02110-2131			CHUNDURU, SURYAPRABHA	
			ART UNIT	PAPER NUMBER
			1637	
			MAIL DATE	DELIVERY MODE
			02/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/719,746

Applicant(s)

SLEPNEV, VLADIMIR I.

Examiner

Suryaprabha Chunduru

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/4/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicants' response to the office action filed on November 23, 2007 has been considered and acknowledged.
2. The Information Disclosure Statement filed on November 23, 2007 has been considered and acknowledged.

Status of the Application

3. Claims 1-40 are pending, Applicants' response to the office action is fully considered. All arguments have been fully considered and thoroughly reviewed, but are deemed persuasive for the reasons that follow. This action is made FINAL necessitated by IDS.

New Grounds of rejections necessitated by IDS

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Bass et al. (US 2001/0039014 A1).

Bass et al. teach a polymerase chain reaction (PCR) apparatus of claim 1, 27-28, 30-37 comprising (i) a solution holder separately hold plurality of samples of reaction mixture (see at least page 2, paragraph 0011-0012) (ii) a heat exchanging structure to cyclically control specified

duration and temperature of plurality of samples (see at least page 3, paragraph 0023) dispensing mechanism to dispense, aliquots from each sample of the plurality of samples at respective different cycles of an amplification regimen (see at least page 2, paragraph 0017, page 3, col. 1, line 1-9, paragraphs 0018-0019, page 5, paragraphs 0040-0043, page 9, paragraph 0074, page 53, paragraph 0489, page 56, paragraph 0540, page 63, claims 1-2, 5, 18, page 64, claims 35-36, page 65, claims 58-59, page 67, claims 100-108).

With regard to claim 2, Bass et al. teach that the set of plural samples comprises all of the plural samples (see page 3, paragraphs 0018-0019).

With regard to claims 3-5, 13, Bass et al. teach that the sample holder comprises heat-conducting metal block includes aluminum (see at least page 3, paragraphs 0022-0023).

With regard to claims 6-8, Bass et al. teach that the solution holder comprises silica coated material and multiple capillary tubes (see at least page 2, paragraph 0017, page 3, col. 1, line 1-9, paragraph 0021).

With regard to claims 9, 11, Bass et al. teach that the capillary tubes comprise one end closed by sealing the ends (see page 50, paragraph 0459-0450).

With regard to the claim 10, Bass et al. teach that the flow channels comprise oil to flow through chamber (see page 58, paragraph 0550).

With regard to claim 12, Bass et al. teach that plural samples comprise multiple of 96 samples (see at least page 3, paragraphs 0018-0019).

With regard to claim 14-15, Bass et al. teach that the heat exchanger comprises at least one hot air oven and one water bath (see at least page 3, paragraph 0023).

With regard to claim 16-20, Bass et al. teach that the temperatures comprise two or three

incubation temperatures ranging from 45-99⁰ C includes denaturation, annealing and extension temperatures (see page 22, paragraph 0297, page 32, paragraph 0285, 0290).

With regard to claims 21-24, Bass et al. teach that the apparatus comprises loading apparatus to load samples and aliquot holders comprise 96 or 384 well microtiter trays (see page 49, paragraph 0455-0457, page 50, paragraph 0459, page 54, paragraph 0503-0504).

With regard to claims 25-26, Bass et al. teach that the aliquot holders comprise one of sample holders and sample inputs of another instrument (see page 3, col. 1, line 1-9, paragraphs 0018-0019, page 5, paragraphs 0040-0043).

With regard to claim 29, Bass et al. teach that the apparatus comprises a reaction system to cause amplification (see page 3, paragraph 0023, page 68, claim 112, page 67, claims 100-108).

With regard to claim 32, 35, 38-40, Bass et al. teach that the apparatus comprises a separation device (capillary electrophoresis) quantitative analysis system (see page 3, paragraph 0024, page 4, col. 1, line 1-14 of paragraph 0024, page 65, claim 64). Accordingly the disclosure of Bass et al. anticipates the instant claims.

Response to arguments:

5. With regard to the rejection of claims 1-40 under 35 USC 102(e) as being anticipated by Enzelberger et al., Applicants' arguments are fully considered and found persuasive. The rejection is withdrawn herein in view of the persuasive arguments.

Conclusion

No claims are allowable.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12/4/07 prompted the new ground(s) of rejection presented

in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b).


Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suryaprabha Chunduru whose telephone number is 571-272-0783. The examiner can normally be reached on 8.30A.M. - 4.30P.M , Mon - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SURYAPRABHA CHUNDURU
PRIMARY EXAMINER 1/21/08